SUPPLEMENT TO "THE ARAB REPUBLIC OF YEMEN AND THE PEOPLE'S REPUBLIC OF SOUTHERN YEMEN" REPORT DATED MARCH 9, 1973

On June 19, 1974, the Arab Republic of Yemen repealed its permanent constitution promulgated December 30, 1970 and substituted it with an interim constitution. Certain basic principles of the repealed constitution were retained in the new interim constitution, a fact which indicates the extent of the value and importance attached to these principles by the Yemeni people.

The repealed constitution consisted of 170 articles while the interim one is composed of only 20 articles. The articles retained from the previous constitution are under Chapter One: General Principles: The State. These include:

> Art. 1. Yemen is an Arab Islamic and independent state enjoying full sovereignty. Its system of government is republican.
>
> Art. 3. Islam is the state religion and Arabic the official state language.
>
> Art. 4. The Islamic Shariah is the source of all laws.

Chapter III of the interim constitution provides for the system of government:

> Art. 17. The judiciary is independent, and there shall be no authority over it except the law. Its verdicts shall be handed down and executed in accordance with the principles of Shariah.

Chapter IV, Concluding Rules, states:

> Art. 18. All the rules determined by the laws, by-laws and decisions prior to the issuance of this constitutional declaration shall remain in force unless they conflict with the rules of this declaration or unless they are amended or revoked. 1/

The preceding articles represent approximately 25 percent of the total provisions of the interim constitution emphasizing that Muslim religion and Islamic law are supreme in Yemen, and that the Shariah law of Islam is the source of all laws (Article 4) of that country.

It is recommended that our report of March 9, 1973, pages 17-23, where we discussed the Qur'anic basis for the illegality of adoption under the principles of Islamic law and compared them to acknowledgment, be reviewed. Therein, we also stressed the priority attached to a legal principle derived from the Qur'an and the traditions of the prophet Muhammed. In addition, pages 25-29 should also be reviewed since it will not only answer the questions raised in your letter of November 20, 1972, Files A18-943-352; A19-759-301; and, A19-357-815, but it will also be applicable to the questions raised in your recent communication date July 9, 1975.

To update the information provided in our report of March 9, 1973, we made a fresh and complete search of all of

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1/ The Middle East and North Africa: 1974-1975, 21 ed., Europa Publications, Ltd., London, 1974, p. 783.

our sources especially those received since the research done for the above mentioned report. The following sources were researched but no changes have occurred since March 9, 1973:

Recently we received from the U. S. Department of State one volume containing 987 pages in Arabic entitled "Compilation of Legislation of the Arab Republic of Yemen" arranged under the supervision of the Office of Legal Adviser for the Presidential Council and Council of Ministers. The preface, signed by the Chief of the Legal Adviser's Office and the Legal Adviser to the Presidential Council and the Council of Ministers on July 1972, states:

> This is the Arab Republic of Yemen's compilation of legislation, or every worthy one of them, collected since the revolution occurred, published in one volume for the first time subsequent to the successful publication of financial, economic and labor laws during the past year.

Through a very careful but rather fruitless search of the 987 pages of this publication, it was discovered that it does not include any legislation concerning the whole area of domestic relations. This indicates that personal status matters are still governed by the non-codified principles of Islamic law. (See page 27(7)a of our report of March 9, 1973).

Further search of material recently received from the People's Democratic Republic of Yemen produced the Family Law, Law No. 1 of 1974 (a copy of which is attached for your information). We recommend that you read Part IV, Chapter I (1) entitled Paternity

Including Acknowledgment. Despite the fact that People's Democratic Republic is ruled by a government that tends to the left, the first and most recent family law is devoid of any mention of adoption indicating to us that authorities did not want to legislate any principles which would be counter to the people's religious beliefs. Therefore, the question of adoption and many other sensitive questions pertaining to the religious area were left out of this family law also indicating that no changes have occurred in the People's Democratic Republic of Yemen since the writing of our March 9, 1973 report.

Finally, we suggest that all documents presented be carefully scrutinized. They should also be authenticated by the U. S. Embassy or Consulate and verified as true decrees issued by the Shariah courts. These documents should also be studied and evaluated in regard to content. Thus far, all the documents that have come to our attention received from Muslim citizens of the Arabic speaking countries, especially Yemen, concerning adoption appear suspicious despite bearing the rubber stamps of h the Shariah court, Ministry of Justice, Governor of a district, Military Council, etc. Although these documents bear numerous stamps certifying the signature and seal, the contents are not certified. As a matter of fact, most of the stamped material rejects all responsibility for the contents of the documents. For example, note the document authenticated by the British Consullin.

Aden contains the familiar phrase, "No responsibility is accepted by this consulate for the contents of this document". The same statement is made by every government authority identifying the seal of another government agency or the signature of one of its employees.

Furthermore, even when the word "Tabanni" (adoption) is used in a court document, it is used in the sense of a charitable deed and not as a legal act creating rights and obligations as it is understood in this country. Otherwise, the religious judge would be adjudicating a cause which is considered illegal under the same law which gave him the authority to preside as a judge, namely the Islamic law. Some of the documents submitted include statements such as this, "... and all and singular the facts set forth in this petition for adoption being established as true, to my satisfaction and that under the usages, customs, and laws of this country, the above facts are circumstances constituting an adoption at the very inception of the relationship between the adopted child and the adoptive parents." A statement of this nature, full of generalities, in my opinion, is no more valid than hearsay evidence in any trial. It has been established that personal status matters in Yemen are subject to the principles of Islamic law and it has been also established according to

the interim constitution that the Shariah is the source of all laws representing public order. Hence, if there is a rule legalizing adoption based on usage or custom, such a rule is in conflict with the principles of Islamic law which represents public order and which does not accept adoption.

Prepared by Dr. Zuhair E. Jwaideh
Chief, Near Eastern and African Law Division
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